REMARKS

The Office Action has been carefully reviewed in light of the cited references and the Examiner's comments, and accordingly, applicant is enclosing a Terminal Disclaimer executed by the assignee of the above application. The Terminal Disclaimer should overcome the rejection based upon double patenting over claims of applicant's prior Patent No. 5,900,299. Applicant is also replacing claims 26-39 with new claims 40-49 to distinguish Applicant's invention more clearly and to place this application in condition for allowance. New independent claims 40, 44 and 47 replace corresponding claims 26, 32 and 36.

In reference to new claim 40, applicant's vacuum insulated article comprises a gas impermeable flexible film forming spaced film walls sealed together to form a bag, the film walls having projecting portions sealed together to form an integral evacuation tube, a core of porous material within the bag, the bag forming an air-tight enclosure around the core, the bag and the core adapted to be evacuated with a tubular nozzle projecting into the evacuation tube and connected to a vacuum pump, and the evacuation tube being sealed after the core and the bag are evacuated to a predetermined vacuum level. Applicant has carefully reviewed the disclosure of Bridges et al '408 and is unable to find any disclosure or suggestion in the patent of a vacuum insulated article including the structure set forth above in new claim 40. For example, Bridges et al discloses sheet metal or steel panels 12 and 14 having edges 16 welded together. The evacuation tube 18 is attached, for example, by welding or a screw-type nipple. There is nothing in this reference or in any of the other references teaching applicant's structure.

With respect to new claim 44 which is directed to applicant's vacuum formed article as disclosed in connection with FIGS. 5-9, the article includes a core box of porous material and having parallel spaced side walls and a bottom wall defining an open end chamber, a partially sealed bag of flexible gas impermeable film and having a length generally twice a length of the side walls of the box, the core box

positioned within the bag, the bag and the core box being evacuated to a predetermined vacuum level causing the bag to enclose the core box tightly with a portion of the bag lining the chamber, and the bag being sealed after the core box and bag are evacuated. While the core material 22 disclosed in Bridges et al '408 defines a shallow cavity for receiving the screen 24 and fiberglass 26 at the end of the tube 18, the sheet metal panel 14 does not line the cavity, and there is no suggestion of applicant's vacuum insulated box-like article as disclosed in connection with FIGS. 5-9 and set forth above in new claim 44.

The above comments with respect to new claim 44 also apply to new claim 47 and the claims dependent from claims 44 and 47 which include the structure of claim 44. Also, the above comments with respect to new claim 40 apply to new dependent claims 41-43. Furthermore, while De Vos et al '353 discloses V-shaped grooves within a core panel to provide for bending the core panel, this reference does not disclose or teach applicant's evacuation grooves 16 as recited in claims 41, 45 and 48 and shown in FIG. 14 wherein each groove 16 is defined by parallel spaced surfaces of the core with the groove having a depth greater than its width so that the film does not fill the evacuation groove when a suction is applied.

In regard to new claim 42, FIG. 3 of Bridges et al '408 does not teach applicant's thin layer 150 of foam material bonded to a gas impermeable film forming a bag and having a substantially uniform thickness around the bag, as applicant discloses in connection with FIGS. 13 and 14. In Bridges et al '408, the attached metal panels 12 and 14 are enclosed within a molded block of foam insulation material. With respect to new claim 43, applicant's O-ring 74 (FIGS. 2-4) is adapted to surround and contact the tubular nozzle 60 and has an outer peripheral surface engaging a surrounding portion of the evacuation tube 48 to form a fluid-tight releasable coupling. The O-ring 52 disclosed in Bartel, Sr. '730 surrounds a neck portion of the container bag 56 to hold the bag onto the nozzle 8.

In view of the foregoing and the enclosed Terminal Disclaimer, applicant believes that each of new independent claims 40, 44 and 47 and the claims dependent therefrom defines a vacuum insulated article which is clearly distinguished from the references. Accordingly, applicant believes that these claims are in condition for allowance, and respectfully requests that this application be passed to issue.

Respectfully submitted,

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